

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
COUNTY OF NEWPORT**

At a meeting of the Town Council of the Town of Tiverton, County and State aforesaid, held at the Tiverton High School Auditorium, 100 North Brayton Road, on the 13th day of June 2016 A.D. at 6:00 p.m.

President deMedeiros opened the meeting with the Pledge of Allegiance to the Flag.

Roll Call:	Denise M. deMedeiros - President	Jay J. Lambert	Peter A. Mello
	Joan B. Chabot – Vice President	Brett N. Pelletier	David Perry
	Joseph R. Sousa		

Town Administrator, Matthew Wojcik and Town Solicitor Anthony DeSisto were also present.

TOWN COUNCIL SITTING AS CHARTER MONITORING AND COMPLAINT REVIEW BOARD
**CITIZENS COMPLAINT OF CHARTER VIOLATION SECTION 1218 – USE OF TOWN
RESOURCES TO INFLUENCE A VOTING CONTEST**

President deMedeiros reviewed the procedure with the Solicitor. Mrs. Driggs, one of the complainants will give an opening statement; Attorney Ken Tremblay is representing the Library. Mrs. Driggs can have witnesses; the Council will be allowed to ask questions, Attorney Tremblay can present witnesses and ask questions. The public hearing will then be opened for questions or comments from the audience; the public hearing will then be closed and the Council will deliberate. Mrs. Driggs opened with a motion to continue; was aware of the right for the complaint to be heard within 30 days of the filing. Jeff Caron, one of Mrs. Driggs witnesses had filed an Access to Public Records request (APRA) for library documents and received a response from Barbara Donnelly, Chair of the Library Trustees to extend the response time to 20 business days. Mrs. Driggs opined it may be judicially efficient for the Council deliberations. Mrs. Driggs handed the motion to the Town Clerk Nancy Mello. Solicitor DeSisto cited the Charter, Section 1211; have to go forward with something. Solicitor DeSisto suggested starting the hearing, have witnesses and the Council can make that deliberation as the hearing progresses. Councilor Sousa favored postponing to a later date, liked to have more information. Councilor Lambert wanted to hear the opening statement and testimony of the complainants; can make a decision on a continuance later. Councilor Pelletier observed some of the items in the request would have little bearing on the testimony from Mr. Caron; all are emails messages or communications by the Library staff.

Councilor Perry made a motion to not continue and hear this tonight; the motion was seconded by Councilor Lambert. President deMedeiros pointed out would only need a motion to continue the hearing. Councilor Sousa made a motion to continue the hearing to a future date. There was no second to this motion. Councilor Lambert raised a procedural issue; according to Section 1211, subsection a), any qualified elector of the Town may file a sworn statement. Councilor Lambert noticed there was no sworn statement; President deMedeiros discussed with the Solicitor that all the complaints filed in the last several years did not have a sworn statement and were heard. Mrs. Driggs explained she had previously asked about the process. The complaint was handed in by Mrs. Cook; Town Clerk Mello explained the complaint was not handed to her as she was in a meeting at the time; did concur on any of the other complaints taken as long as signature on it. Councilor Lambert noted the Council could waive a sworn statement but the Charter was specific. Mrs. Driggs was asking for accommodations right now to include a sworn statement. Solicitor DeSisto this complaint did come to the Council after the Town Clerk determined it was sufficiently set forth, can cure right now with a notarized statement; the hearing should proceed or can cure if there is a waiver by the rest of the Council. Councilor Lambert agreed was correct, that requirement can be waived; things can happen here in order for this hearing to proceed.

Councilor Sousa made a motion to waive a sworn statement. The motion was seconded by Councilor P. Mello, Councilor Sousa suggested going forward, was common practice in the past, and should require going forward. The motion passed on a vote of 4-3, Councilors Sousa, P. Mello, deMedeiros and Chabot in favor, Councilors Perry, Lambert and Pelletier opposed.

Mrs. Driggs noted the Council has a copy of the complaint with copies of exhibits seen as pictures. One of the pictures showed a plastic easel with flyers next to budgets; that picture was taken by Mr. Caron around May 17. Pictures were also taken of signs that said vote for budget #1, save our library on the property of the Tiverton Public Library and one triangular sign at the Union Library. The gist of the complaint is the Library, the Director and the Board of Trustees who hires the Director was in violation of 1218 using Town property to advocate a particular budget. Have no idea where the money came from for the signs, the Library gets a significant amount of grant money from the Town. Mrs. Cook took the picture of the sign in front of Union Library on May 18. Mr. Caron took the pictures of the sign on the Library property and in the children's room. Mr. Katz will also testify regarding pictures he took of a woman wearing a placard (very blurry) and the flyers. Solicitor DeSisto when questioned explained it was not illegal to take someone's picture without them signing off, could not take pictures of children.

Councilor Lambert questioned if Mrs. Driggs could identify the officers or employees of the library at that time and whether or not she considered this to be a criminal or civil violation. Councilor Lambert noted the difference is that ignorance of the law was a ground for defense in civil litigation. Councilor Lambert questioned Mrs. Driggs on whether she knew who had direct knowledge of the signs being placed there. Mrs. Driggs opined that was to be determined by the Council after they hear the evidence. Mrs. Driggs could not say who was the officer or employee involved in placing the sign or the flyers.

Attorney Ken Tremblay, representing the Library Board of Trustees (the Trustees) realized the sworn statement could be waived; don't know the charges brought, in order to have a complaint need to identify someone; will not waive the sworn statement. The Charter identifies every officer of the Town and there is no mention of the Library Trustees. Under RIGL 29-4, they are under State Law; under 59-4.5 the Town can set up for the grant, cannot tell the Library Trustees what to charge for a book. Under State Law it is a free library, contended the Council could not sit as a Charter Complaint as the Library Trustees are not part of the Charter and they are not officers of the Town of Tiverton. Solicitor DeSisto in response to questions explained the building itself was Town property, section 211 of the Charter identifies any official body, board or commission in its corporate capacity, or any Town employee, has knowingly taken any action or failed to take action, was the appropriate language. Attorney Tremblay is correct the public library is governed by State Law and not the Charter. Solicitor DeSisto noted there are Town employees there and it is a Town building. Councilor Pelletier noted an inconsistency between 1211 (a) (2) and 1218; 1218 specifically says who it applies to; if not either in 1211 then not subject to this authority. Attorney Tremblay disagreed with the Solicitor; the Trustees are not Town employees under the State statute. Mrs. Driggs noted on the official Town of Tiverton website under the Library Board of Trustees the Council appoints the 7 members; the Trustees are responsible for hiring the Director. Mrs. Driggs handed a Flow Chart of the Library Services organization to the Town Clerk. Attorney Tremblay repeated under State Law 29-4 the Trustees are not officers of the Town. Councilor Sousa recalled litigation from many years ago where the Library employees are not employees, questioned if this was correct and if the complaint was directed at the Trustees. Mrs. Driggs affirmed this was directed at the Library Board of Trustees and the Director of the Library. Councilor Sousa questioned if library funds were used to pay for the sign since the Council gives them a grant. Solicitor DeSisto noted the first issue was to determine who issues checks for the Library employees; Councilor Lambert also had good points, first have to identify if officers and employees of the Town. Councilor Lambert objected to extending the complaint as the party is entitled to know what they are being charged with; paragraph number 1 does not say anything about a misuse of funds. Mrs. Driggs contended they are public employees who put up the signs.

Councilor Pelletier noted the complaint does not specify the Board of Directors or the Trustees; does not identify the individuals. Mrs. Driggs could not identify who put them there. Solicitor DeSisto agreed with Attorney Tremblay the Board of Trustees entirely comes from the State statute but are appointed by the Council; did not agree they were not connected to the Town, considered them officers. Councilor Sousa recalled some years ago the employees of the Library tried to unionize and could not; opined none of those employees are Town employees technically. President deMedeiros noted the Town does not hire fire or discipline them; questioned if they were employees. Solicitor DeSisto was aware they get grant money from the Town, the Town of Tiverton issues checks and will defend them if necessary. Solicitor DeSisto suggested asking some questions of the Town Treasurer on how they get paid. Treasurer Denise Saurette explained the Town receives payroll and invoices for the Library approved by the Board of Directors and pays them as a convenience to the Library; agreed with President deMedeiros cannot hire or fire them. Solicitor DeSisto questioned Attorney Tremblay on who defends the Library if they get sued. Attorney Tremblay was not sure, would have to look at liability insurance documents; everything about them being employees is spelled out in Chapter 29. It says the Library will hire the Director, submit the money to the Town; they approve the bill and the Town pays the bill out of the grant. The only function the Town has with the Library is an appropriation and can appoint the Trustees. Attorney Tremblay will not waive his client's rights for a fishing expedition for the Board of Trustees and will not allow his clients to make statements in front of a Board that has no jurisdiction. Solicitor DeSisto noted the Council has heard from the Treasurer as she characterizes the Library employees, Attorney Tremblay and Mrs. Driggs. Solicitor DeSisto explained, as a predicate matter, the Council needs to make Findings of Fact as to whether they feel the Library employees fall under Section 1218 and are employees of the Town. Solicitor DeSisto was not as firm as to them being employees after listening to the Treasurer. President deMedeiros questioned the Solicitor on whether a private citizen who is not under Town control can put a sign on Town property. Solicitor DeSisto cites a Supreme Court case from 1997 that said a public library is a public forum; are some First Amendment implications here, a private person uses that forum as free speech when it comes to an election. Solicitor DeSisto noted the Council may have to make findings of fact relative to employees before proceeding to the next question; would have to make a motion as to whether the Trustees and Director are officers or employees of the Town. Councilor P. Mello requested the Solicitor's opinion on whether the employees within the Library were employees of the Town. Solicitor DeSisto was going along with what the Treasurer said; she does not consider them to be Town employees. When questioned Town Administrator Wojcik did not consider them employees of the Town; does not evaluate them, give them raises or discipline them. Administrator Wojcik opined the Board of Trustees was responsible for the Library Director. A recent disciplinary matter at the Library was handled by the Director. The Personnel Board is not involved in the hiring; the Personnel Manual was not extended to the Library. Councilor Perry was on the Budget Committee for many years along with Councilor Sousa; hashed this out the Council has no authority over the library. The Town gives them a grant; they spend the money and are on their own. Mrs. Driggs argued the Council appoints the Trustees who are responsible for the Library Director, seem to have some responsibility. Attorney Tremblay cited 29-4-9 that shows the limitations of the Council and repeated the Library Trustees are not subject to the Charter Review Board.

Councilor Perry made a motion that they are not an officer or employee of this Town under State Law Section 24-9-5. Under Section 1218 they are not on any payroll of the Town, cannot discipline them. The motion was seconded by Councilor Lambert, Solicitor DeSisto noted the motion should include the Council relied on the testimony of the Town Treasurer and Administrator to add to the statement as to the status as not being considered employees of the Town. Councilor Perry amended the motion to state that also, Councilor Lambert seconded the amended motion. Councilor Sousa was in favor of continuing the hearing relative to the public records request. Town Clerk Mello repeated the motion made by Councilor Perry and seconded by Councilor Lambert that the Library Board of Trustees and the Director are not employees of the Town, officers or officials under the State Law or under Section 1218. They are not on the Town payroll, not disciplined by the Town and Mr. DeSisto added we would rely on the testimony of the Town Treasurer and the Town Administrator as to the status of their employment with the Town. Councilor Chabot recapped public libraries are governed by RIGL 29-4, the Board of Trustees are not mentioned in the Town Charter. The Board of Trustees receive a grant from the Town and have

ultimate approval authority for the payment of invoices that are paid through the Town accounting department and per RI law 29-4. Section 1218 refers only to officers or employees of the Town and their use of Town resources to influence the outcome of an election. When it comes to enforcement Section 1211 seems to broaden that issue to include others; opined in effect 1211 does not override 1218. Section 1218 is very specific; that being said opined it was correct the Board of Trustees, the Library Director or any employee that works at the libraries are not officers or employees of the Town. Councilor Chabot believed it was very specific and agreed with it. The motion passed on a vote of 6-1, Councilor Sousa opposed.

Before getting to anything else Solicitor DeSisto suggested a motion to deny the complaint based upon the prior motion.

Councilor Lambert made a motion, seconded by Councilor P. Mello to Deny the Complaint based upon the prior motion. Councilor Sousa requested a continuance, wanted more information. The motion passed on a vote of 6-1, Councilor Sousa opposed.

At this time, 8:15 pm a brief ten minute recess was taken.

Approval of Consent Agenda:

All items listed with “(CA) “are to be considered routine by the Town Council and will ordinarily be enacted by one motion. There will be no separate discussion of these items unless a member of the Council, or a member of the public so requests and the Town Council President permits, in which event the item will be removed from Consent Agenda (CA) consideration and considered in its normal sequence on the agenda.

President deMedeiros read the items on the Consent Agenda. Councilor P. Mello requested removal of item CA3c, Councilor Chabot requested removal of item CA3d and Councilor Perry item CA10 a&b.

Councilor Pelletier motioned to Approve the rest of the Consent Agenda. The motion, seconded by Councilor Perry passed unanimously.

The Consent Agenda was as follows:

CONSENT AGENDA

A-1-Approval of Minutes of Previous Meetings:

- a. Approval of Regular Council Meeting Minutes of April 11, 2016
- b. Approval of Special Council Meeting May 2, 2016
- c. Approval of Executive Session Minutes Council Meeting May 23, 2016
- d. Approval of Special Council Meeting June 6, 2016

A-2-Receipt of Minutes from the Following Boards, Commissions:

- a. Cemetery Commission
- b. Conservation Commission (3)
- c. Recreation and Beach Commission (2)
- d. Prevention Coalition

A-3-Correspondence – Receive and File:

- a. Exeter-West Greenwich Regional School District Resolution on Gun Free Schools – Referred to School Department
- b. Town of Exeter Resolution in Support of Article 15 Relating to Municipalities of the Governor’s FY 2017 Budget

A-4-Town Administrator – Police and Fire Department Overtime Reports Through May 2016

A-5-Solicitor – Zoning Overlay Ordinance and Comprehensive Plan Language Regarding Proposed Casino Referred to Planning Board for Recommendation

A-6-Bay Street Area Moratorium - Vote on Extension of Moratorium to December 31, 2016

A-7-Town Administrator – Notification of Re-Appointment of Donald J. Medeiros to Building Code Board of Appeals

A-8-Town Administrator – Department Monthly Reports for May 2016

A-9-Treasurer Denise Saurette – Budget and Revenue Reports for May 2016

A-11-Archer Harman, 44 Jiley Hill – Traffic on Jiley Hill – Referred to Police Chief

BUSINESS BROUGHT BEFORE THE COUNCIL

CA-3c.Susan Gill Regarding Dept. of Health Permits to Sell Food at Town Concession Stands

Ms. Gill explained, last year as a member of the Recreation Commission, identified concerns about concession stands on Town properties relative to food permits and using deep fryers to cook food. As a taxpayer and member of the public believed this to be a safety concern as there is no running water at the concession stands; met with Town Administrator Wojcik who agreed to review. Ms. Gill emailed the Administrator several times, received no responses, wanted to address before the fall season. Ms. Gill contacted John Mullen, Department of Health who suggested some options on how to proceed. Ms. Gill felt the need to bring this before the Council and for the record handed the Clerk several documents relative to the food handling permits. John Cordeiro, Recreation Commission Chair was contacted by the State, told them the Commission was not involved in the youth leagues and had no authority to tell them what they could or could not do. Mr. Cordeiro talked to Mr. Mullen and agreed to act as a go between with the Youth Leagues and the State to give them the information they need. Tiverton Youth Soccer only sells prepacked food and beverages. Little league has been selling hot dogs for over 40 years, is willing to work with the State to get any permits they need. This was brought up to the Commission and never voted on; the member who brought it up was reminded the Commission was an advisory board and could not tell those leagues what to do. The person who ran the concession stand for the recent Soccer tournament has a food manager's license; will pass any information along to the Little League, Youth Soccer and the Town Administrator. There are 5 concession stands in Town; they use a hot dog roller and an air fryer for the French fries. The State treats concession stands like hot dog stands, running water and septic are not necessarily required. They were advised by other authorities to stop selling cooked food; the Leagues will work with the State. The Commission will be looking at Town ordinances so they match the State. Councilor Perry thanked Chairman Cordeiro for a lot of work. Councilor Chabot requested an update from the Town Administrator in 2-4 weeks.

Councilor Perry motioned to Approve item CA3c, Susan Gill Regarding Dept. of Health Permits to Sell Food at Town Concession Stands. The motion, seconded by Councilor Chabot passed unanimously.

CA-3d-Senior Citizens Regarding Budget Cuts to Senior Center

Councilor Chabot thanked the members of the Senior Center and Janet Rancourt for documenting their concerns and the need to keep the Senior Center open; would like to forward to the Budget Committee.

Councilor Chabot motioned to Approve CA3d, Senior Citizens Regarding Budget Cuts to Senior Center. The motion, seconded by Councilor Perry passed unanimously.

CA-10-Councilor Pelletier - Distribution for Discussion and Possible Action at Next Meeting

a. Town Council Long Range Goals

b. Town Council Governance Policy

Councilor Perry questioned what Councilor Pelletier was looking for; Councilor Pelletier outlined fairly broad policies suggested for good government notice and access; hoped to start a larger conversation for long range goals and policy achievement. Councilor Perry noted there is agenda processes in place just needs to adhere.

Councilor Pelletier motioned to put these on the next meeting or the one after as the Town Clerk sees fit. The motion, seconded by Councilor Perry passed unanimously.

PUBLIC PRESENTATIONS:

Emera Energy - Solar Farm Presentation

Tim O'Connor, Director of Business Development for Tiverton Power spoke about a proposal that was submitted last June as the Town is considering a number of alternate proposals for the Industrial Park (the Park). Emera Energy is looking to grow the business, recently announced a long term service agreement with GE. Emera owns 57 acres of the Park, some of this land could be used for various energy projects. The company looks at projects that have the ability overtime for expansion of a 265 megawatt gas fired power plant. The market is not there at this time. Last year proposed to purchase the full park, estimated 80-90 acres would be usable, currently pay over \$766k in tax service to the Town. Offered to lease for 20 years to \$1.3million; proposed purchase price was \$1.5 million. If Emera purchased the land would have paid the \$1.5million up front. There is a cap of 300 mw for the extension of the footprint, would be looking to change that. The proposal in June of 2015 was in the form of non-binding letter of intent. Currently engaged a third party consultant to look at the Park to see what could be sited there; will give an up-front payment based on a level of certainty going forward. Councilor Sousa did not want to see the tax agreement extended unless the numbers increased.

Administrator Wojcik noted there was a time and a place for a Payment in Lieu of Taxes Agreement (PILOT). When this plant was built it was known as a peaking plant, was not known how often it was going to be used; in this case a PILOT agreement guaranteed payment. Mr. O'Connor's job was to find suitable energy projects where they get a suitable return on the investment capital as it relates to energy. National Grid is actively seeking solar projects in RI. Mr. O'Connor opined would not likely be able to put more than 25 acres of solar in the Park. Right now doing a lot of geo technical analysis to find out what can be done with the land itself; will have a better idea of what can be sited at the end of the month. President deMedeiros suggested contacting the Town Planner and the Town Administrator after getting what is needed; can go on a future agenda. Councilor Pelletier noted the Park has been talked about for years, Emera has been a good neighbor; may not be able to fit everyone in the Park. President deMedeiros thanked Mr. O'Connor; Councilor P. Mello requested a tour of the site.

President deMedeiros requested a motion to bring up the Appointments; Councilor Perry suggested bringing up the transfer items as well.

Items moved up in the agenda.

Councilor Perry made a motion to move up items D1, 2, 3 and 4 and items F1, 2 and 3. The motion seconded by Councilor Sousa passed unanimously.

D-APPOINTMENTS & RESIGNATIONS:

Resignations

1. Scott Humphrey – Economic Development Commission

Councilor Perry made a motion to Accept the Resignation of Scott Humphrey from the Economic Development Commission with Regret and Thanks for service to the Town. The motion, seconded by Councilor Sousa passed unanimously.

Appointments

2. Conservation Commission – 1 Vacancy – 3 Year Term to 4/15/2019

Patricia Hilton, 99 Peaceful Way – Requests Re-Appointment

Ms. Hilton explained she works on a great commission with wonderful people; noted the good work of the commission.

Councilor Perry made a motion to Reappoint Patricia Hilton, 99 Peaceful Way for a 3 year term to 4/15/2019 to the Conservation Commission. The motion, seconded by Councilor Sousa passed unanimously.

3. Housing Authority – 2 Vacancies – 5 Year Term to 10/15/2020 (4 Years)

Jeannie-Mae Durfee, 2411 Main Road – Requests Re-Appointment

Ms. Durfee has been on this board for 5 years; her late mother used to be the Director and is very familiar with the Board. Ms. Durfee is in the health care field; would like to continue the good work, enjoys working with this board.

Councilor Perry made a motion to Reappoint Jeannie-Mae Durfee, 2411 Main Road to a 5 year term to 10/15/2020 (4 years), to the Housing Authority. The motion, seconded by Councilor Sousa passed unanimously.

4. Zoning Board of Review – 1 Vacancy – 5 Year Term to 7/15/2021

David B. Collins, 4001 Main Road – Requests Re-Appointment

Mr. Collins noted this board is short 2 alternates, would like to continue to enhance the work that's been done over his last 39 years. Councilor Perry thanked Mr. Collins for his 39 years of service and for his efforts.

Councilor Perry made a motion to Reappoint David B. Collins, 4001 Main Road to a 5 year term to 7/15/2021 to the Zoning Board of Review. The motion, seconded by Councilor Sousa passed unanimously.

F-FINANCIAL BUSINESS:

1. Chief Lloyd, TFD

a.Request Transfer of \$5,000 from Acct #3310-7611 (Fuel, Oil & Tires) to Acct #3310-7640) (Apparatus Maintenance)

b.Request Transfer of \$3,500 from Acct #3310-6968 (Medical Physicals) to Acct #3310-6969) (Medical Supplies)

c.Request Transfer of \$3,400 from Acct #3310-5108 (Longevity) to Acct #3310-7530) (Software Maintenance)

Administrator Wojcik explained the fuel accounts are running small surpluses; this is to cover accounts so as not to have deficits. T/A Wojcik added \$17k has been spent to repair all 3 Rescue vehicles and for Engine 5.

Councilor Perry made a motion to Transfer \$5,000 from Acct #3310-7611 (Fuel, Oil & Tires) to Acct #3310-7640) (Apparatus Maintenance). The motion, seconded by Councilor Lambert passed unanimously.

Councilor Perry made a motion to Transfer \$3,500 from Acct #3310-6968 (Medical Physicals) to Acct #3310-6969) (Medical Supplies). The motion, seconded by Councilor Sousa passed unanimously.

Councilor Perry made a motion to Transfer \$3,400 from Acct #3310-5108 (Longevity) to Acct #3310-7530) (Software Maintenance). The motion, seconded by Councilor Sousa passed unanimously.

2. Chief Blakey, TPD

a.Request Transfer of Request Transfer of \$10,740 from Acct#3330-5107 (Holiday) to Acct#3330-6928 (Education)

b.Request Transfer of \$6,600 from Acct#3330-7611 (Gas Acct) to Acct#3330-6648 (Auto Parts)

c.Request Transfer of \$9,600 from Acct#3330-5102 (AFSCME Salary) to Acct#3330-5168 (Clothing Allowance)

Councilor Perry made a motion to Transfer \$10,740 from Acct#3330-5107 (Holiday) to Acct#3330-6928 (Education). The motion, seconded by Councilor Sousa passed unanimously.

Councilor Perry made a motion to Transfer \$6,600 from Acct#3330-7611 (Gas Acct) to Acct#3330-6648 (Auto Parts). The motion, seconded by Councilor Sousa passed unanimously.

Councilor Perry made a motion to Transfer \$9,600 from Acct#3330-5102 (AFSCME Salary) to Acct#3330-5168 (Clothing Allowance). The motion, seconded by Councilor Sousa passed unanimously.

3. Town Administrator – Approval of \$122,170.35 Transfer from Acct#3310-5101(Fire Personnel Services) to Acct#2300-5295 (Unfunded Liability) to Cover Town’s Expenses Related to FLSA-Attached Listing

President deMedeiros noted the account listed as Unfunded Library should be Unfunded Liability.

Councilor Perry made a motion to Approve the Transfer of \$122,170.35 from Acct#3310-5101(Fire Personnel Services) to Acct#2300-5295 (Unfunded Liability) to Cover Town’s Expenses Related to FLSA-Attached Listing. The motion was seconded by Councilor Sousa who requested an explanation for the public. Administrator Wojcik explained the Town of Tiverton with 3 of its 4 labor unions engaged in a dispute over the calculation of overtime payments over the course of several years looking back. All parties involved agreed not to pursue that dispute to legal resolution but to arrive at a monetary amount that would satisfy both sides. It is important to note that the Fire contract with significant changes to the base salary line allowed for the settlement of this dispute within the budget that existed for this year; at this point all members including retired and those that have left. The motion passed unanimously.

B-PUBLIC HEARINGS: **Advertised Public Hearings**

1. Public Hearing to Amend Ordinance Chapter 54-36, Article II – Recreation Areas Regarding Recreation Equipment Rental Businesses

Solicitor DeSisto explained this was designed to address the issue of vendors who wish to use Town property to lease recreational equipment such as kayaks. There is language in here for indemnification to protect the Town and a requirement of liability insurance with a minimum amount of \$1million dollars of coverage and to pay a fee through the resolution that is set by the Council. The Council would have absolute discretion to grant or deny for the request to use Town land for the operational use of recreation rental equipment. There is a definition of land and beaches in the ordinance. President deMedeiros opened the hearing for comments from the public. John Cordeiro, Recreation Commission Chair suggested limiting to the beaches; Solicitor DeSisto noted this was strictly for the rental of recreation equipment. Councilor Pelletier recalled vendors could not sell anything within 200 feet of the designated recreation areas, have other areas where it might be appropriate. Councilor Chabot noted a positive recommendation is needed from the Recreation Commission before it gets to the Council, suggested leaving this open. President deMedeiros called for comment from anyone else, hearing none closed the Public Hearing.

Councilor Pelletier motioned to Approve the Amendment to Ordinance Chapter 54-36, Article II regarding Recreation Equipment Rental Businesses. The motion, seconded by Councilor Chabot passed unanimously.

Adopted ordinance amendment attached at end of minutes.

2. Town Administrator – Approval of Proposed Amendments to Fees and Fines Resolution

Administrator Wojcik's memo contained several items with specific recommendations, some changed since the last public hearing. Back in February mooring fees were discussed, Harbor Commission Chair Bruce Cox distributed a handout with recommendations; fee is based on the size of the boat making it fairer for smaller boat owners. Councilor Sousa referred to page 5 of the spreadsheet, suggested the Flea Market fee should be \$350 or less and not go higher. T/A Wojcik referred to page 2 of his memo, research shows 17 of 39 issue flea market licenses from \$0 to 350. Tiverton charges the second highest rate; the most common fee is \$100. There is only one that is issued and it's a pre-existing non-conforming use; the ownership is engaging in an improvement effort. The license triggers the inspection process; Councilor Sousa suggested leaving it at \$350. Councilor Chabot noted the lateness of the hour, questioned if anything were of a critical nature that has to be taken care of tonight. President deMedeiros opened the public hearing; Recreation Commission Chair John Cordeiro explained the Commission wanted to go back to the \$5 per day and \$10 on weekends at Grinnell's. In 2014 the rates were increased to match Fogland, saw a drop in attendance. It costs \$132 per day to open the beach, looking to regenerate interest. Councilor Sousa suggested the parents watch the children and not have any lifeguards. President deMedeiros reminded him of the liability; Councilor Chabot noted residents can go to the beach for free. Mr. Cordeiro suggested moving the fees for non-residents back to \$5 per car or truck on weekdays, \$10 on weekends and holidays and leaving the RV fee at \$25 regardless of the day, just for Grinnell's Beach; Fogland Beach fees will stay as they are now. Councilor Pelletier hoped to revisit parking, personnel and policy once Grinnell's gets improvements.

Councilor Perry made a motion to Change the Fees at Grinnell's Beach for non-residents to \$5.00 for cars or trucks during the week, \$10.00 for holidays and weekends and \$25.00 for RV's and to continue Fines and Fees to the next meeting. The motion was seconded by Councilor Chabot and passed on a vote of 5-2, Councilors Sousa and Pelletier opposed.

C-TOWN COUNCIL SITTING AS BOARD OF LICENSING:

There were no items for this topic on the agenda.

E-UNFINISHED BUSINESS:

There were no items for this topic on the agenda.

G-NEW BUSINESS:

1. Lu Frias – New England Softball Club President – Request for Signs on Town Fields

Mr. Frias was looking for permission to place signs for Girls Softball at Town Farm and Bulgarmarsh Park. Mr. Frias engaged the use of the Portsmouth High School field. Mr. Frias had looked to use the Town fields but needed to get the signs printed for the field he had at the time. Solicitor DeSisto explained, in the Town ordinance the Town Council has to give permission to put signs at Town fields. Mr. Frias noted the signs would be up until August 27, will maintain and monitor.

Councilor Pelletier made a motion to Approve two lawn signs, one at Town Farm and one at Bulgarmarsh Field to be up until August 27. Councilor Perry seconded the motion; questioned who authorizes use of the field. Recreation Commission Chair Cordeiro explained he was working on it. The motion passed unanimously.

2. Town Solicitor – Appointment of Special Legal Counsel for Enforcement Relating to Four Corners Property LLC

Solicitor DeSisto explained due to litigation that does not have to do with the Town, the Solicitor has to recuse from this matter; the Town Council needs to appoint Special Legal Counsel. At this time Solicitor DeSisto left the

Council table. T/A Wojcik explained the Town is engaged in a significant number of regulatory entanglements with a different number of businesses operating at Four Corners; need to be represented by articulate Counsel. A number of names have been brought forward including Bill Harsch who was a former Town Solicitor; Brian Wagner, former Counsel for DEM and Chris Davidio, who worked as a lawyer in the septic division. Need to get someone quickly; trying to negotiate and get compliance before having to go to court. Councilor Sousa, for the record, objected to this, opined if the Town was working to ease zoning would not be trying to shut them down.

Councilor P. Mello motioned to go forward and appoint the Special Counsel. Councilor Pelletier disagreed, in the past have a fee structure and he had two more names to pass on to the Administrator. President deMedeiros will put this back on the agenda in two weeks. Councilor Perry, due to the late hour, recommended to continue the rest of the agenda to next Monday, Councilor Sousa seconded the recommendation. Councilor Pelletier noted he was on vacation next week and his item would only take 10-15 minutes. President deMedeiros noted everything including Executive Session except for item G5 would be continued. Administrator Wojcik requested the Council take up items G3 and G4 as both are time sensitive. Councilor Perry removed the recommendation.

3. Town Administrator – Ratification of Recruiting and Retention MOA with IAFF

Administrator Wojcik explained the recruiting and retention committee wanted to offer the four Firefighters who are planning to leave an opportunity to stay in order to keep the department fully staffed. This would allow these 4 to attain a First Class rank with pay, agree not to leave or will have to pay back the money. When the department is not fully staffed then overtime starts to crank up. President deMedeiros questioned the precedence; will offer these people more money not to leave, others may say this is a way to get a raise. T/A Wojcik agreed there is a downside, the committee believed this was a way to retain employees; right now this is a matter of economics. The agreement specifically sets this does not set a precedent; these ranks are pay steps and don't involve qualifications. Councilor Perry agreed with this; was partly involved in this process, understands this is a motivator to keep these people, was concerned about what happens after; will the Council see the Police Department come before them or other Firefighters. Councilor Perry realized this was a motivator to keep people here; it's cheaper than having to train new employees Linda Larsen, also on the retention committee noted two of the four have indicated they will sign; schedules were discussed and was surprised to find out new employees need new equipment as it pertains to their height and weight; can't necessarily transfer equipment. Councilor Sousa agreed this would be setting a precedent; preferred to have employees who want to stay, opined making special deals was not the way to do it.

Councilor Lambert made a motion to Ratify the Recruiting and Retention MOA with IAFF per G3 attached. The motion, seconded by Councilor Perry passed on a vote of 6-1, Councilor Sousa opposed.

4. Town Administrator – Final Ratification of Crown Castle Cell Tower Lease

Administrator Wojcik explained this was the legal embodiment of the letter to renew the Crown Castle cell tower lease. A result of the negotiations was a \$10k bonus payment to the Town, an increased rent payment and an option for the right of first refusal to be extended to Crow Castle if the land the DPW and Police Department is ever sold.

Councilor Lambert motioned for the Final Ratification of Crown Castle Cell Tower Lease and Authorize the Town Administrator to sign the document attached to G4. The motion, seconded by Councilor Perry passed unanimously.

5. Councilor Brett Pelletier – Seaside Gas Station and Stone Bridge Abutment – Discussion on Construction, Project Engineering, Legal Arrangements, Funding Mechanisms and Project Administration/Oversight

Councilor Pelletier suggested having a special meeting to discuss this in more detail, can set up now or the Town Clerk can poll by email. Councilor Pelletier was waiting for additional information from DOT; T/A Wojcik just received during the break but it was not detailed. Councilor Pelletier noted the accounts could be discussed at the special meeting; there is a short window, Council leverage will probably disappear after November. Councilor

Pelletier questioned the Administrator on the deadline and the next steps. Administrator Wojcik noted is usually takes 6 months for CRMC approval; need to get as soon as possible. The T/A was looking for specific approval and direction from the Town Council; like to go into the meeting with CRMC that the Council is comfortable with the timeline, the budget and the design for this project. The Town is in a position to get VHB to do what they are supposed to be doing for this project. The T/A read from the letter given to him by Representative Edwards; in 2011 the Federal Government earmarked \$468,973 for the Stone Bridge Main Road Causeway Project for the design. The \$2.33 million will not be released until the project is ready, it will be obligated when it is ready for advertising. The \$468K was obligated for design because that was ready to proceed. The abutment improvement for \$100k was a RIDOT access project; it does not appear any of the \$2.3 million was used to purchase Seaside Gas. Councilor Pelletier opined the Council needed to move quickly to get a project manager not beholden to the State. Administrator Wojcik explained every single aspect of this project handled by the Town proved almost to the penny. President deMedeiros polled the Council; everyone was available for a Special Meeting on June 22 at the Town Hall and it would be for this item only. Councilor P. Mello pointed out the Administrator knew these figures, had them all the time and will discuss more at the special meeting. The Town Administrator wanted the record to show he apologized to the Councilor after the last Council meeting; did not want to be packaged as being deceitful, had a lot of information to go through.

Councilor Perry made a motion to adjourn, seconded by Councilor Sousa. Councilor Pelletier requested the motion be withdrawn in order to make a motion for the special meeting. Councilor Perry withdrew his motion.

Councilor Pelletier made a motion to continue the Seaside Gas Station and Stone Bridge Abutment discussion until a Special Meeting on June 22. The motion, seconded by Councilor Chabot passed unanimously.

Councilor Pelletier made a motion, to continue the rest of the agenda to the next regularly scheduled meeting. The motion, seconded by Councilor Chabot passed unanimously.

H-BIDS AND REQUESTS FOR PROPOSALS:

There were no items for this topic on the agenda.

H-1-OPEN PUBLIC FORUM FOR ANNOUNCEMENTS, COMMENTS, QUESTIONS:

No one signed up to speak at the Open Public Forum.

I-TOWN ADMINISTRATOR ANNOUNCEMENTS:

Update Regarding Recycling Station

This item was continued to the next regular meeting.

J-COUNCIL ANNOUNCEMENTS:

There were no Council announcements.

K-TOWN SOLICITOR – ITEMS AND ANNOUNCEMENTS:

Notice of Claim – Denied and Referred to Interlocal Trust Referred to School Department

This item was continued to the next regular meeting.

L-TOWN CLERK ITEMS AND ANNOUNCEMENTS:

There were no items for this topic on the agenda.

CLOSED EXECUTIVE SESSION:

1. Town Administrator – 42-46-5(a) (1) - Distribution of Performance Evaluation for Tax Collector Toni Lyn McGowan

2. Town Administrator – 42-46-5(a) (1) - Distribution of Performance Evaluation for Senior Director Janice Gomes

3. Town Administrator – 42-46-5(a) (5) – Disposition of Publicly Held Property – Industrial Park

4. Town Planner – 42-46-5(a) (5) – Disposition of Publicly Held Property – Industrial Park

Closed Executive Session was not held.

ADJOURNMENT:

Councilor Perry motioned to adjourn, seconded by Councilor Sousa passed unanimously.

Council adjourned at approximately 11:15 p.m.

A True Copy.

ATTEST: _____
Nancy L. Mello, Town Clerk

An ordinance in amendment of the Code of the Town of Tiverton,
Chapter 54. The Town Council of the Town of Tiverton hereby ordains as follows: That
Chapter 54 of the Code of the Town of Tiverton is hereby amended to add section 54-36
as follows:

Article II Recreation Areas

Sec. 54-36. – Recreation Equipment Rental Businesses.

The Town Council shall have the authority to allow any person, persons, corporation, partnership, or entity conduct a business involving the rental of recreation equipment on Town owned recreation land. Before the Council may grant such permission, the following conditions must be met:

- a) The applicant receives a positive recommendation from the responsible commission for the designated area, as defined in Sec. 54-28 of the Town Code of Ordinances;
- b) The applicant enters an indemnification and hold harmless agreement for the benefit of the Town;
- c) The applicant shall provide the town clerk with evidence of commercial general liability insurance with a minimum of \$1,000,000.00 of coverage, with the Town named as an additional insured; and
- d) The applicant shall pay a fee as set by the Council through resolution.

The Town Council shall have complete discretion to grant, grant with conditions, or deny a request to use Town recreation area land for operation of a recreation equipment rental business. The applicant shall be required to obtain a renewal of such permission on an annual basis. The Town Council may revoke such permission immediately for cause, after notice to the applicant and an opportunity for the applicant to be heard. The Town Council may revoke such permission for any reason whatsoever after ninety (90) days Written notice to the applicant.